

REMARKS/ARGUMENTS

Claims 1-11 stand in the present application, independent claims 1 and 6 having been amended. Reconsideration and favorable action is respectfully requested in view of the above amendments and the following remarks.

In the Office Action, the Examiner has rejected claims 1-11 under 35 U.S.C. § 102(e) as being anticipated by Apostolopoulos et al. ("Apostolopoulos"). Applicant respectfully traverses the § 102(e) rejection of the claims.

Beginning at page 9 of the Office Action the Examiner has given reasons as to why Applicant's previous arguments were not persuasive. More particularly, the Examiner notes at page 11 that "applicant's arguments appear to be directed toward non-acceptance or use of second-instance packets, however, this limitation is not disclosed in the claim language." As noted above, Applicant has amended independent claims 1 and 6 to include this limitation. Support for the limitation can be found in the present specification at page 4, line 19 and page 7, line 10 and in Figures 5 and 6 (steps 439, 639). Accordingly, the present claims are believed to now more clearly patentably define over the cited reference.

In addition to this distinction, the present claims are believed to patentably define over the cited reference for a number of additional reasons. More particularly, another principal difference is that Apostolopoulos's invention is embodied in the network - the diversity application 134 forms part of the network 100, whereas

Applicant's invention is embodied in the end-user equipment. Indeed, all claims in the present case are related to the user terminal.

Applicant's invention is intended to circumvent network bandwidth constraints. The process is completely under the control of the user. A user can already do this in a crude way simply by running several instances of the same browser application and accessing the same website from each one. There is no co-operation between the two or more access requests, or the resulting data downloads. What the present invention provides is a means for amalgamating the resulting multiple feeds to the user terminal into a single, more reliable one. It is inefficient from the network point of view (although the network operators will benefit from the multiple subscriptions required for the user to operate it) and it would not be obvious to develop the network-based system of Apostopoulos in this way to allow individual users to circumvent the network operators' bandwidth constraints in this way.

Yet another distinguishing element is that Applicant's invention operates a plurality of access requests resulting in a plurality of quite independent connections being established - the network is not aware that these are in fact both running the same data between the same two terminations (as they use different network addresses, and may even be provided by different service providers, the common physical termination is not apparent to the network). As the connections are independent, they will not be operating in rotation but will be transmitted at the same time (probably over different routes but maybe from time to time over the same route, and even the same multiplex). Apostopoulos's system is clearly described as

transmitting in rotation. There is a brief mention in Apostopoulos, of "simultaneous" use of different links within the network (col. 9, lines 64-67). However, this should be read as meaning the links are merely made available for use simultaneously, as the rest of the specification makes it clear that they are actually used in rotation. Apostopoulos regards "hopping" beginning at (col. 6, line 31). Simultaneous use of different links, rather than rotation between them, reduces the overall capacity of the network whereas if the links are used in rotation, as a complete reading of Apostopolous suggests is the intention, each link remains available for other transmissions when the other one (or one of the others) is in use.

Supporting this view that the Apostopoulos system is not an expansion of bandwidth is that the resulting speed is stated to be merely the average of the individual links. See Apostopoulos at col. 3, lines 37-40, col. 4, line 40, etc. Applicant's invention generates speeds which are the aggregate of the individual links, the speed of the fastest individual link.

To take an example, given two links with speeds "a" and "b," Apostopoulos would achieve a speed of $(a+b)/2$, the present invention would achieve $\max(a,b)$, i.e., whichever is currently the greater of "a" or "b". It is also more reliable in the event of data loss from the faster stream, the missing data will be delivered by the slower one.

Therefore, in view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all of claims 1-11, standing in the application, be allowed and that the case be passed to issue. If there are any other issues remaining which the Examiner believes could be resolved

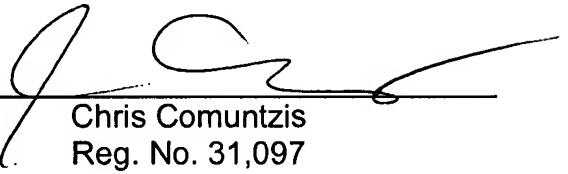
CLARK
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through either a supplemental response or an Examiner's amendment, the Examiner is respectfully requested to contact the undersigned at the local telephone exchange indicated below.

Respectfully submitted,

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